RESEARCH INVOLVING CHILDREN AS SUBJECTS

Project Code: _____

Project Title: _____

45 CFR, Part 46, Subpart D – Additional Protections for Children

§46.403 IRB duties.
In addition to other responsibilities assigned to IRBs under this part, each IRB shall review research covered by this subpart and approve only research which satisfies the conditions of all applicable sections of this subpart.

RISKS AND BENEFITS – (Check which section applies to this research)

☐ **§46.404 Research not involving greater than minimal risk.**[1]

DHHS will conduct or fund research in which the IRB finds that no greater than minimal risk to children is presented, *only if the IRB finds that adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in 46.408*

☐ **§46.405 Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects.**

DHHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that holds out the prospect of direct benefit for the individual subject, or by a monitoring procedure that is likely to contribute to the subject's well-being, only if the IRB finds that:
(a) the risk is justified by the anticipated benefit to the subjects;
(b) the relation of the anticipated benefit to the risk is at least as favorable to the subjects as that presented by available alternative approaches; and
(c) *adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians, as set forth in 46.408.*

☐ **§46.406 Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition.**

DHHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that does not hold out the prospect of

[1] Minimal risk means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests

direct benefit for the individual subject, or by a monitoring procedure which is not likely to contribute to the well-being of the subject, only if the IRB finds that:
(a) the risk represents a minor increase over minimal risk*;*
(b) the intervention or procedure presents experiences to subjects that are reasonably commensurate with those inherent in their actual or expected medical, dental, psychological, social, or educational situations;
(c) the intervention or procedure is likely to yield generalizable knowledge about the subjects' disorder or condition which is of vital importance for the understanding or amelioration of the subjects' disorder or condition; and
(d) *adequate provisions are made for soliciting assent of the children and permission of their parents or guardians, as set forth in 46.408.*

☐ **§46.407 Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children.**

DHHS will conduct or fund research that the IRB does not believe meets the requirements of 46.404, 46.405, or 46.406 only if:
(a) the IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; and
(b) the Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, has determined either:
(1) that the research in fact satisfies the conditions of 46.404, 46.405, or 46.406, as applicable, or
(2) the (satisfies) following: (i) the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; (ii) the research will be conducted in accordance with sound ethical principles; (iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in 46.408.

§46.408 Requirements for permission by parents or guardians and for assent by children.

ASSENT OF CHILDREN -- (Check which section applies to this research)

☐ **Assent Required:** The IRB shall determine that adequate provisions are made for soliciting the assent of the children, when in the judgment of the IRB the children are capable of providing assent. In determining whether children are capable of assenting, the IRB shall take into account the ages, maturity, and psychological state of the children involved.

☐ **Assent Not Required:** If the IRB determines that the capability of some or all of the children is so limited that they cannot reasonably be consulted or that the intervention or procedure involved in the research holds out a prospect of direct benefit that is important to the health or well-being of the children and is available only in the context of the research, the assent of the children is not a necessary condition for proceeding with the research.

☐ **Waiver of Assent:** Even where the IRB determines that the subjects are capable of assenting, the IRB may still waive the assent requirement under circumstances in which consent may be waived in accord with 46.116 of Subpart A.

PERMISSION OF PARENTS – (Check which section applies to this research)

☐ **Permission of One Parent:** The IRB shall determine that adequate provisions are made for soliciting the permission of each child's parents or guardian. Where parental permission is to be obtained, the IRB may find that the permission of one parent is sufficient for research to be conducted under 46.404 or 46.405.

☐ **Permission of Both Parents:** Where research is covered by 46.406 and 46.407 and permission is to be obtained from parents, both parents must give their permission unless one parent is deceased, unknown, incompetent, or not reasonably available, or when only one parent has legal responsibility for the care and custody of the child.

☐ **Waiver of Parental Permission:** If the IRB determines that a research protocol is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children), it may waive the consent requirements, provided an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and provided further that the waiver is not inconsistent with Federal, State, or local law. The choice of an appropriate mechanism would depend upon the nature and purpose of the activities described in the protocol, the risk and anticipated benefit to the research subjects, and their age, maturity, status, and condition.

§46.409 Wards.

WARDS AS SUBJECTS – (check which section applies to this research)

☐ No subjects are wards.

☐ Children who are wards of the State or any other agency, institution, or entity can be included in research approved under 46.404 or 46.405.

☐ Children who are wards of the State or any other agency, institution, or entity can be included in research approved under 46.406 or 46.407 *if such research is related to their status as wards*, *and if advocates are appointed to represent the interests of the children*.[2]

☐ Children who are wards of the State or any other agency, institution, or entity can be included in research approved under 46.406 or 46.407 *if such research is conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as subjects are not wards.*

[2] If the research is approved under this section, the IRB shall require appointment of an advocate for each child who is a ward, in addition to any other individual acting on behalf of the child as guardian or in loco parentis. One individual may serve as advocate for more than one child. The advocate shall be an individual who has the background and experience to act in, and agrees to act in, the best interests of the child for the duration of the child's participation in the research and who is not associated in any way (except in the role as advocate or member of the IRB) with the research, the investigator(s), or the guardian organization.